

EIGHTY-SEVENTH DAY - MAY 31, 2005

LEGISLATIVE JOURNAL

**NINETY-NINTH LEGISLATURE
FIRST SESSION**

EIGHTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, May 31, 2005

PRAYER

The prayer was offered by Sister Veronica Volkmer, Marian Sisters, Marycrest Motherhouse, Waverly.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Price who was excused until she arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the eighty-sixth day was approved.

MESSAGE FROM THE GOVERNOR

May 26, 2005

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 312, 312A, 90e, and 90Ae were received in my office on May 25, 2005.

I signed these bills and delivered them to the Secretary of State on May 26, 2005.

Sincerely,
(Signed) Dave Heineman
Governor

STANDING COMMITTEE REPORT
Education

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Timothy D. Hodges - Coordinating Commission for Postsecondary Education

VOTE: Aye: Senators Bourne, Byars, Howard, Kopplin, McDonald, Raikes, Schrock, and Stuhr. Nay: None. Absent: None.

(Signed) Ron Raikes, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 237. Introduced by Raikes, 25.

WHEREAS, the Lincoln East High School boys' golf team is the champion of the 2005 Class A Boys' State Golf Tournament; and

WHEREAS, the Spartans claimed their ninth state golf championship in the past twelve seasons; and

WHEREAS, the players and coaches of the Lincoln East boys' golf team have exemplified teamwork, sportsmanship, discipline, and determination; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lincoln East boys' golf team be congratulated for its effort this season and in the Boys' State Golf Tournament.

2. That a copy of this resolution be sent to Head Coach Jim Tonniges.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 645. The Standing Committee amendment, AM0316, found on page 482 and considered on pages 1330 and 1808, as amended, was renewed.

Senator Chambers renewed his pending amendment, FA210, found on page 1811, to the Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 1 nay, and 25 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 10:

Beutler	Connealy	Kopplin	Landis	Schimek
Chambers	Howard	Kruse	Louden	Stuthman

Voting in the negative, 21:

Baker	Engel	Kremer	Raikes	Wehrbein
Brashear	Erdman	Langemeier	Redfield	
Brown	Fischer	Mines	Smith	
Byars	Flood	Pahls	Stuhr	
Cunningham	Hudkins	Pedersen, Dw.	Thompson	

Present and not voting, 15:

Aguilar	Cornett	Heidemann	Johnson	Preister
Bourne	Cudaback	Janssen	McDonald	Schrock
Combs	Foley	Jensen	Pederson, D.	Synowiecki

Excused and not voting, 3:

Burling	Friend	Price
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The Chambers amendment lost with 10 ayes, 21 nays, 15 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

MESSAGES FROM THE GOVERNOR

May 31, 2005

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 66, 66A, 111, 111A, 117, 206e, 334, 364e, 499e, 546, 546A, 566, 664e, 664Ae, 689e, 689Ae, and 753e were received in my office on May 25, 2005.

I signed these bills and delivered them to the Secretary of State on May 31, 2005.

Sincerely,
(Signed) Dave Heineman
Governor

May 31, 2005

Mr. President, Mr. Speaker, and
Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Members of the Legislature:

I am returning LB 683 & LB 683Ae without my signature and with my objections.

LB 683 would provide salary increases for the State's constitutional officers, effective after January 4, 2007. Under this legislation, in addition to salary increases for other constitutional officers, the Governor's salary would be increased, by 34 percent, to \$114,000. I appreciate your willingness to consider the salary levels of our constitutional officers with those of other states; however, the salaries for these officials were last increased only two years ago, pursuant to the enactment of LB 956 in 2000.

For these reasons, I urge you to sustain my vetoes of these bills.

Sincerely,
(Signed) Dave Heineman
Governor

RESOLUTION

LEGISLATIVE RESOLUTION 238. Introduced by McDonald, 41.

WHEREAS, Carson H. Rogers, former state legislator who served from 1985 through 1992, passed away on May 26, 2005; and

WHEREAS, Mr. Rogers is survived by his beloved wife, Alice; their children: Roxann, Russell, Rhonda, Ron, Regina, and R. Jay; their grandchildren, and their great-grandchildren; and

WHEREAS, Mr. Rogers was born February 1, 1924, in Ord, Nebraska. He graduated from Ord High School, served in the U. S. Navy during World War II, and returned home to Ord to begin his lifelong career in agriculture in Valley County; and

WHEREAS, Mr. Rogers devoted many years of his life to public service as a member of the Valley County Hospital Board of Directors, as a member and chairman of the Valley County Board of Supervisors, and as President of the Nebraska Pork Producers before his successful campaign for the 41st legislative district seat; and

WHEREAS, Mr. Rogers served on the Committee on Committees, the Agriculture Committee, the Revenue Committee, and the Rules Committee; and

WHEREAS, during his term as chairman of the Agriculture Committee, Mr. Rogers was instrumental in passing ag-related legislation that moved the Nebraska Beef Council out of state government and put Nebraska at the forefront in eradicating pseudorabies in hogs; and

WHEREAS, Mr. Rogers was liked and respected by his legislative colleagues and will be greatly missed.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature expresses its condolences to the family of Carson H. Rogers.

2. That a copy of this resolution be sent to the family of Carson H. Rogers.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 645. Senator Chambers withdrew his pending amendments, FA211, FA212, FA213, and FA214, found on page 1811.

Senator Connealy withdrew his pending amendment, AM1722, found on page 1760.

The Standing Committee amendment, AM0316, found on page 482 and considered on pages 1330, 1808, and in this day's Journal, as amended, was renewed.

The Standing Committee amendment, as amended, was adopted with 34 ayes, 2 nays, 11 present and not voting, and 2 excused and not voting.

Senator Brashear moved for a call of the house. The motion prevailed with 39 ayes, 0 nays, and 10 not voting.

Senator Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 33:

Aguilar	Cornett	Foley	Langemeier	Smith
Baker	Cudaback	Howard	Mines	Stuhr
Brashear	Cunningham	Hudkins	Pahls	Synowiecki
Brown	Engel	Janssen	Pedersen, Dw.	Thompson
Burling	Erdman	Jensen	Pederson, D.	Wehrbein
Byars	Fischer	Johnson	Raikes	
Combs	Flood	Kremer	Redfield	

Voting in the negative, 10:

Beutler	Connealy	Kruse	Louden	Schimek
Chambers	Kopplin	Landis	McDonald	Stuthman

Present and not voting, 3:

Bourne	Preister	Schrock
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Excused and not voting, 3:

Friend	Heidemann	Price
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Advanced to E & R for review with 33 ayes, 10 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 589. Title read. Considered.

The Standing Committee amendment, AM0743, found on page 878, was considered.

Senator Mines renewed the Mines-Beutler pending amendment, AM1707, found on page 1760, to the Standing Committee amendment.

Pending.

SPEAKER BRASHEAR PRESIDING

MOTIONS - Print in Journal

Senator Schimek filed the following motion to LB 683:

That LB 683 becomes law notwithstanding the objections of the Governor.

Senator Schimek filed the following motion to LB 683A:

That LB 683A becomes law notwithstanding the objections of the Governor.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 196, 224, 227, 228, 229, 231, 232, 233, and 234 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 196, 224, 227, 228, 229, 231, 232, 233, and 234.

VISITORS

Visitors to the Chamber were Lisa and Jase Heuser from Papillion; Senator Schrock's granddaughters, Jacqueline, Gabby, and Grace Schrock; Abdoulaye Ba, Timothee Boissy, Opa Diallo, and Djibril Sow from Senegal, Africa; Senator Synowiecki's daughter, Jenny Synowiecki, and Veronica Barrientos from Omaha; and 44 fourth-grade students and teachers from West Gate Elementary School, Omaha.

RECESS

At 12:06 p.m., on a motion by Senator McDonald, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

ROLL CALL

The roll was called and all members were present except Senators Aguilar, Brown, Cornett, Engel, Flood, Heidemann, Kruse, Landis, Loudon, D. Pederson, Price, Thompson, and Wehrbein who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 589. The Mines-Beutler pending amendment, AM1707, found on page 1760 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

The Mines-Beutler amendment was adopted with 27 ayes, 0 nays, 9 present and not voting, and 13 excused and not voting.

The Standing Committee amendment, AM0743, as amended, was adopted with 33 ayes, 0 nays, 7 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 589A. Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 538. E & R amendment, AM7106, found on page 1754, was adopted.

Senators Brashear and McDonald offered the following amendment:
AM1711

(Amendments to Standing Committee amendments, AM1650)

1 1. Insert the following new sections:

2 "Sec. 4. Section 28-931.01, Revised Statutes Supplement,
3 2004, is amended to read:

4 28-931.01. (1) A person commits the offense of assault
5 on an officer using a motor vehicle if he or she intentionally and
6 knowingly causes bodily injury to a peace officer, a probation
7 officer, or an employee of the Department of Correctional Services
8 (a) by using a motor vehicle to run over or to strike such officer
9 or employee or (b) by using a motor vehicle to collide with such
10 officer's or employee's motor vehicle, while such officer or
11 employee is engaged in the performance of his or her duties.

12 (2) Assault on an officer using a motor vehicle shall be
13 a Class IIIA felony.

14 Sec. 25. Section 83-1,135, Revised Statutes Supplement,
15 2004, is amended to read:

16 83-1,135. Sections 83-170 to 83-1,135 and sections 26
17 and 27 of this act shall be known and may be cited as the Nebraska
18 Treatment and Corrections Act.

19 Sec. 26. (1) A committed offender who is otherwise
20 eligible for parole, who is not under sentence of death or of life
21 imprisonment, and who because of an existing medical or physical
22 condition is determined by the department to be terminally ill or
23 permanently incapacitated may be considered for medical parole by
1 the board. A committed offender may be eligible for medical parole
2 in addition to any other parole. The department shall identify
3 committed offenders who may be eligible for medical parole based
4 upon their medical records.

5 (2) The board shall decide to grant medical parole only
6 after a review of the medical, institutional, and criminal records
7 of the committed offender and such additional medical evidence from
8 board-ordered examinations or investigations as the board in its
9 discretion determines to be necessary. The decision to grant
10 medical parole and to establish conditions of release on medical
11 parole in addition to the conditions stated in subsection (3) of
12 this section is within the sole discretion of the board.

13 (3) As conditions of release on medical parole, the board
14 shall require that the committed offender agree to placement for
15 medical treatment and that he or she be placed for a definite or
16 indefinite period of time in a hospital, a hospice, or another
17 housing accommodation suitable to his or her medical condition,
18 including, but not limited to, his or her family's home, as
19 specified by the board.

20 (4) The parole term of a medical parolee shall be for the
21 remainder of his or her sentence as reduced by any adjustment for
22 good conduct pursuant to the Nebraska Treatment and Corrections

23 Act.

24 Sec. 27. (1) If during the term of medical parole the
25 medical condition of a medical parolee improves to the extent that
26 he or she is no longer eligible for medical parole, the board may
27 order that he or she be returned to the custody of the department
1 to await a hearing to determine whether the medical parole should
2 be revoked.

3 (2) If medical parole is revoked due to improvement in
4 the medical condition of the parolee, he or she shall serve the
5 balance of his or her sentence with credit for time served on
6 medical parole and without forfeiture of any credits accrued for
7 good conduct pursuant to the Nebraska Treatment and Corrections Act
8 prior to medical parole.

9 (3) If a medical parolee whose medical parole is revoked
10 due to improvement in his or her medical condition would otherwise
11 be eligible for parole or any other release program, he or she may
12 be considered for such release program.

13 (4) In addition to revocation of medical parole pursuant
14 to subsection (1) of this section, medical parole may also be
15 revoked for violation of any condition of the medical parole
16 established by the board."

17 2. On page 30, line 20, after the second comma insert
18 "28-931.01,"; and in line 21 after the last comma insert
19 "83-1,135,".

20 3. Renumber the remaining section and correct internal
21 references accordingly.

The Brashear-McDonald amendment was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 538A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 484. E & R amendment, AM7112, found on page 1754, was adopted.

Senator Foley withdrew his pending amendment, AM1699, found on page 1740.

Senators Foley, Loudon, and Cunningham offered the following amendment:

AM1748

- 1 1. Strike section 12 and insert the following sections:
- 2 "Section 1. Section 48-310, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 48-310. (1) No person under ~~the age of~~ sixteen years of
- 5 age shall be employed or ~~suffered~~ permitted to work in any
- 6 employment as defined in section 48-301 more than forty-eight hours

7 in any one week, nor more than eight hours in any one day, nor
8 before the hour of 6 in the morning, nor after the hour of 8 in the
9 evening if the child is under the age of fourteen, nor after the
10 hour of 10 in the evening if such child is between the ages of
11 fourteen and sixteen. The person issuing the work certificate may
12 limit or extend the stated hour in individual cases by endorsement
13 on the certificate, except a child shall only be permitted to work
14 after the hour of 10 p.m. if there is no school scheduled for the
15 following day and, if he or she is between fourteen and sixteen
16 years of age, he or she has consented to such extension by signing
17 his or her name on the endorsement extension, and his or her
18 employer has obtained a special permit from the Department of
19 Labor. The Department of Labor may issue a special permit to allow
20 employment of such child beyond 10 p.m. upon being satisfied, after
21 inspection of the working conditions, of and the safety,
22 healthfulness, and general welfare to the child of the business
23 premises. The special permit may be issued for periods not to
24 exceed ninety days and may be renewed only after reinspection. The
1 fee for each permit or renewal shall be established by rule and
2 regulation of the Commissioner of Labor, and all money so collected
3 by the commissioner shall be remitted to the State Treasurer who
4 shall credit the funds to the General Fund. Every employer shall
5 post in a conspicuous place in every room where such children are
6 employed a printed notice stating the hours required of them each
7 day, the hours of commencing and stopping work, and the time
8 allowed for meals. The printed form of such notice shall be
9 furnished by the Department of Labor.

10 (2) Except as provided in subsections (3) and (4) of this
11 section, no person under sixteen years of age shall be employed or
12 permitted to work as a door-to-door solicitor.

13 (3) A person under sixteen years of age engaged in the
14 delivery or distribution of newspapers or shopping news may be
15 employed or permitted to work as a door-to-door solicitor of
16 existing customers of such newspapers or shopping news.

17 (4) A person under sixteen years of age is permitted to
18 work as a door-to-door solicitor if he or she is working on behalf
19 of his or her own individual entrepreneurial endeavor.

20 Sec. 13. Sections 1 and 15 of this act become operative
21 on their effective date with the emergency clause. The other
22 sections of this act become operative on January 1, 2006.

23 Sec. 14. If any section in this act or any part of any
24 section is declared invalid or unconstitutional, the declaration
25 shall not affect the validity or constitutionality of the remaining
26 portions.

27 Sec. 15. Original section 48-310, Reissue Revised
1 Statutes of Nebraska, is repealed.

2 Sec. 17. Since an emergency exists, this act takes
3 effect when passed and approved according to law."

4 2. On page 19, strike beginning with "primary" in line

5 13 through "(d)" in line 15 and show as stricken; in line 17 strike
 6 "(e)", show as stricken, and insert "(d)"; and in line 28 before
 7 "shall" insert "and primary insurance benefits payable under Title
 8 II of the Social Security Act, as amended, or similar payments
 9 under any act of Congress".

10 3. Renumber the remaining sections and correct internal
 11 references accordingly.

The Foley et al. amendment was adopted with 28 ayes, 2 nays, 17 present and not voting, and 2 excused and not voting.

Senator Foley withdrew his pending amendment, AM1728, found on page 1809.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 13. E & R amendment, AM7115, found on page 1778, was adopted.

Senators Cunningham and Landis offered the following amendment:
 AM1736

1 1. In the Standing Committee amendments, AM0761, on page
 2 25, strike beginning with "reproduction" in line 1 through "court"
 3 in line 4 and insert "reproducing documents from preservation
 4 duplicates, preparing forms and other material, responding to
 5 inquiries for information, and preparing publications".

6 2. In the Landis amendment, AM1671:

7 a. On page 10, line 6, after "directing" insert
 8 "representatives of"; and

9 b. On page 14, line 5, strike "its" and insert "the
 10 compensation court's".

The Cunningham-Landis amendment was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 13A. Senator Landis renewed his pending amendment, AM1685, found on page 1743.

The Landis amendment was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 465. Senator Mines withdrew his pending amendment, AM1700, found on page 1741.

Senators Mines and Redfield offered the following amendment:

AM1752

(Amendments to Standing Committee amendments, AM0446)

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 8-1,131, Revised Statutes
- 3 Supplement, 2004, is amended to read:
- 4 8-1,131. (1) All banks chartered under the laws of
- 5 Nebraska are qualified to act as trustee or custodian within the
- 6 provisions of the federal Self-Employed Individuals Tax Retirement
- 7 Act of 1962, as amended, or under the terms and provisions of
- 8 section 408(a) of the Internal Revenue Code, if the provisions of
- 9 such retirement plan require the funds of such trust or
- 10 custodianship to be invested exclusively in shares or accounts in
- 11 the bank or in other banks. If any such retirement plan, within
- 12 the judgment of the bank, constitutes a qualified plan under the
- 13 federal Self-Employed Individuals Tax Retirement Act of 1962, or
- 14 under the terms and provisions of section 408(a) of the Internal
- 15 Revenue Code and the regulations promulgated thereunder at the time
- 16 the trust was established and accepted by the bank, and is
- 17 subsequently determined not to be such a qualified plan or
- 18 subsequently ceases to be such a qualified plan, in whole or in
- 19 part, the bank may continue to act as trustee of any deposits
- 20 theretofore made under such plan and to dispose of the same in
- 21 accordance with the directions of the member and beneficiaries
- 22 thereof. No bank, in respect to savings made under this
- 23 subsection, shall be required to segregate such savings from other
- 1 liabilities of the bank. The bank shall keep appropriate records
- 2 showing in proper detail all transactions engaged in under the
- 3 authority of this subsection.
- 4 (2)(a) All banks chartered under the laws of Nebraska are
- 5 qualified to act as trustee or custodian of a medical savings
- 6 account created within the provisions of section 220 of the
- 7 Internal Revenue Code and a health savings account created within
- 8 the provisions of section 223 of the Internal Revenue Code. If any
- 9 such medical savings account or health savings account, within the
- 10 judgment of the bank, constitutes a medical savings account under
- 11 section 220 of the Internal Revenue Code or a health savings
- 12 account under section 223 of the Internal Revenue Code and the
- 13 regulations promulgated thereunder at the time the trust was
- 14 established and accepted by the bank, and is subsequently
- 15 determined not to be such a medical savings account or health
- 16 savings account, in whole or in part, the bank may continue to act
- 17 as trustee of any deposits theretofore made under such plan and to
- 18 dispose of the same in accordance with the directions of the
- 19 account holder. No bank, in respect to savings made under this
- 20 subsection, shall be required to segregate such savings from other
- 21 liabilities of the bank. The bank shall keep appropriate records
- 22 showing in proper detail all transactions engaged in under the
- 23 authority of this subsection.
- 24 (b) Except for judgments against the medical savings

25 account holder or health savings account holder or his or her
26 dependents for qualified medical expenses as defined under section
27 223(d)(2) of the Internal Revenue Code, funds credited to a medical
1 savings account or health savings account are not susceptible to
2 levy, execution, judgment, or other operation of law, garnishment,
3 or other judicial enforcement and are not an asset or property of
4 the account holder for purposes of bankruptcy law.

5 Sec. 2. Section 21-1799, Revised Statutes Supplement,
6 2004, is amended to read:

7 21-1799. (1) All credit unions chartered under the laws
8 of Nebraska shall be qualified to act as a trustee or custodian
9 within the provisions of the federal Self-Employed Individuals Tax
10 Retirement Act of 1962 or under the terms and provisions of section
11 408(a) of the Internal Revenue Code if the provisions of such
12 retirement plan require the funds of such trust or custodianship to
13 be invested exclusively in shares or accounts in the credit union
14 or other credit unions.

15 (2) All credit unions chartered under the laws of
16 Nebraska are qualified to act as trustee or custodian of a medical
17 savings account created within the provisions of section 220 of the
18 Internal Revenue Code and a health savings account created within
19 the provisions of section 223 of the Internal Revenue Code. Except
20 for judgments against the medical savings account holder or health
21 savings account holder or his or her dependents for qualified
22 medical expenses as defined under section 223(d)(2) of the Internal
23 Revenue Code, funds credited to a medical savings account or health
24 savings account are not susceptible to levy, execution, judgment,
25 or other operation of law, garnishment, or other judicial
26 enforcement and are not an asset or property of the account holder
27 for purposes of bankruptcy law.

1 (3) All credit unions chartered under the laws of
2 Nebraska are qualified to act as trustee or custodian of an
3 education individual retirement account created within the
4 provisions of section 530 of the Internal Revenue Code.

5 (4) All credit unions chartered under the laws of
6 Nebraska are qualified to act as trustee or custodian of a Roth IRA
7 created within the provisions of section 408A of the Internal
8 Revenue Code.

9 (5) If any such plan, in the judgment of the credit
10 union, constitutes a qualified plan under the federal Self-Employed
11 Individuals Tax Retirement Act of 1962, or under the terms and
12 provisions of section 220, 223, 408(a), 408A, or 530 of the
13 Internal Revenue Code, and the regulations promulgated thereunder
14 at the time the trust was established and accepted by the credit
15 union is subsequently determined not to be such a qualified plan,
16 or subsequently ceases to be such a qualified plan, in whole or in
17 part, the credit union may continue to act as trustee of any
18 deposits which have been made under such plan and to dispose of
19 such deposits in accordance with the directions of the member and

20 beneficiaries thereof.

21 (6) No credit union, with respect to savings made under
 22 this section, shall be required to segregate such savings from
 23 other assets of the credit union, but the credit union shall keep
 24 appropriate records showing in detail all transactions engaged in
 25 pursuant to this section."

26 2. On page 6, line 10, after the comma insert "and
 27 sections 8-1,131 and 21-1799, Revised Statutes Supplement, 2004,".

1 3. Renumber the remaining sections accordingly.

Senator Beutler offered the following amendment to the Mines-Redfield
 pending amendment:

FA309

Amend AM1752

On page 3, line 1 after the second "account" insert "below \$25,000"

On page 3, line 24 after "account" insert "below \$25,000"

The Beutler amendment was adopted with 27 ayes, 0 nays, 20 present and
 not voting, and 2 excused and not voting.

The Mines-Redfield amendment, as amended, was adopted with 32 ayes, 0
 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 761. E & R amendment, AM7107, found on page
 1779, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 761A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 227. E & R amendment, AM7108, found on page
 1780, was adopted.

Senators Schrock and Loudon offered the following amendment:
 AM1712

(Amendments to E & R amendments, AM7108)

1 1. Insert the following new sections:
 2 "Sec. 2. Section 37-420, Reissue Revised Statutes of
 3 Nebraska, as amended by section 6, Legislative Bill 54,
 4 Ninety-ninth Legislature, First Session, 2005, and section 6,
 5 Legislative Bill 162, Ninety-ninth Legislature, First Session,
 6 2005, is amended to read:
 7 37-420. (1) Any veteran ~~of any war as defined in section~~
 8 ~~80-401.04~~ who is a legal resident of the State of Nebraska and who
 9 was discharged or separated with a characterization of honorable or
 10 general (under honorable conditions) shall be exempt from the

11 payment of any fees provided by the laws of the State of Nebraska
12 and established by the commission pursuant to section 37-327 for
13 the privilege of fishing or hunting in Nebraska if the veteran:

14 (a) Is rated by the United States Department of Veterans

15 Affairs as fifty percent or more disabled as a result of service in
16 the armed forces of the United States; or

17 (b) Is receiving a pension from the department as a
18 result of total and permanent disability, which disability was not
19 incurred in the line of duty in the military service.

20 (2) The exemption described in subsection (1) of this
21 section shall not extend to the privilege of commercial fishing,
22 trapping of fur-bearing animals, or hunting for deer, antelope,
23 wild turkey, or any other species of fish and game on which the
1 open season is limited to a restricted number of permits or to
2 special permits for a restricted area or game management unit.

3 (3) If disabled persons are unable by reason of physical
4 infirmities to hunt and fish in the normal manner, the commission
5 may issue special permits without cost to those persons to hunt and
6 fish from a vehicle, but such permits shall not authorize any
7 person to shoot from any public highway.

8 (4) All permits issued without the payment of any fees
9 pursuant to this section shall be perpetual and become void only
10 upon termination of eligibility as provided in this section.

11 (5) The commission may adopt and promulgate rules and
12 regulations necessary to carry out this section.

13 (6) Permits issued under subdivision (3) of this section
14 as it existed prior to the operative date of this section shall not
15 expire as provided in section 37-421.

16 Sec. 3. Section 37-421, Reissue Revised Statutes of
17 Nebraska, as amended by section 7, Legislative Bill 162,
18 Ninety-ninth Legislature, First Session, 2005, is amended to read:

19 37-421. (1) The commission may issue an annual

20 combination fishing and hunting permit upon application and payment
21 of a fee of five dollars to (a) any Nebraska resident ~~who is a~~

22 ~~veteran of any war as defined in section 80-401.01,~~ who is

23 sixty-four years of age or older; and who was discharged or
24 separated with a characterization of honorable or general (under

25 honorable conditions) or (b) any Nebraska resident who is
26 sixty-nine years of age or older. A person who is issued a permit

27 under this section shall be exempt from the payment of any
1 additional fees provided by the laws of the State of Nebraska and
2 established by the commission pursuant to section 37-327 for the

3 privilege of fishing or hunting in Nebraska, except that such
4 exemption shall not extend to the privilege of commercial fishing,

5 trapping of fur-bearing animals, or hunting for deer, antelope,
6 wild turkey, or any other species of fish and game on which the

7 open season is limited to a restricted number of permits or to
8 special permits for a restricted area or game management unit.

9 (2) A permit issued as provided in this section shall

10 expire as provided in section 37-405. Permits issued under this
11 section as it existed before the operative date of this section
12 shall not expire as provided in section 37-405.

13 (3) If disabled persons are unable by reason of physical
14 infirmities to hunt and fish in the normal manner, the commission
15 may issue special permits without cost to those persons to hunt and
16 fish from a vehicle, but such permits shall not authorize any
17 person to shoot from any public highway.

18 (4) The commission may adopt and promulgate rules and
19 regulations necessary to carry out this section.

20 Sec. 4. Sections 2, 3, and 5 of this act become
21 operative on January 1, 2006. The other sections of this act
22 become operative on their effective date.

23 Sec. 5. Original section 37-420, Reissue Revised
24 Statutes of Nebraska, as amended by section 6, Legislative Bill 54,
25 Ninety-ninth Legislature, First Session, 2005, and section 6,
26 Legislative Bill 162, Ninety-ninth Legislature, First Session,
27 2005, and section 37-421, Reissue Revised Statutes of Nebraska, as
1 amended by section 7, Legislative Bill 162, Ninety-ninth
2 Legislature, First Session, 2005, are repealed."

3 2. Renumber the remaining section accordingly.

The Schrock-Louden amendment was adopted with 29 ayes, 0 nays, 19
present and not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 256. E & R amendment, AM7110, found on page
1783, was adopted.

Senator Price offered the following amendment:
AM1751

1 1. Insert the following new sections:

2 "Sec. 33. Section 71-3,106, Revised Statutes Supplement,
3 2004, is amended to read:

4 71-3,106. The Nebraska Cosmetology Act does not apply to
5 or restrict the activities of the following:

6 (1) Any person holding a current license or certificate
7 issued pursuant to Chapter 71 when engaged in the usual and
8 customary practice of his or her profession or occupation;

9 (2) Any person engaging solely in earlobe piercing;

10 (3) Any person when engaged in domestic or charitable
11 administration;

12 (4) Any person performing any of the practices of
13 cosmetology or nail technology solely for theatrical presentations
14 or other entertainment functions;

15 (5) Any person practicing cosmetology, electrology,
16 esthetics, or nail technology within the confines of a hospital,
17 nursing home, massage therapy establishment, funeral establishment,

18 or other similar establishment or facility licensed or otherwise
 19 regulated by the department, except that no unlicensed or
 20 unregistered person may accept compensation for such practice;

21 (6) Any person providing services during a bona fide
 22 emergency;

23 (7) Any retail or wholesale establishment or any person
 24 engaged in the sale of cosmetics, nail technology products, or
 1 other beauty products when the products are applied by the customer
 2 or when the application of the products is in direct connection
 3 with the sale or attempted sale of such products at retail;

4 (8) Any person when engaged in nonvocational training;

5 (9) A person demonstrating on behalf of a manufacturer or
 6 distributor any cosmetology, nail technology, electrolysis, or body
 7 art equipment or supplies if such demonstration is performed
 8 without charge; ~~and~~

9 (10) Any person or licensee engaged in the practice or
 10 teaching of manicuring; ~~and~~

11 (11) Any person or licensee engaged in the practice of
 12 airbrush tanning or temporary, nonpermanent airbrush tattooing.

13 Sec. 101. Original section 71-3,106, Revised Statutes
 14 Supplement, 2004, is repealed."

15 2. On page 55, line 28, strike "35 to 45" and insert "36
 16 to 46".

17 3. On page 56, line 26; page 57, lines 7 and 22; page
 18 58, line 12; page 63, lines 15 and 25; page 69, line 20; page 72,
 19 line 21; and page 75, line 23, strike "act" and insert "section".

20 4. On page 61, lines 15 and 18, strike "41" and insert
 21 "42".

22 5. On page 72, line 10; page 75, line 16; and page 76,
 23 lines 15 and 20, strike "39" and insert "40".

24 6. On page 80, line 16, strike "74 to 76" and insert "75
 25 to 77".

26 7. On page 86, line 28, strike "90" and insert "91".

27 8. On page 102, line 15, strike "This act becomes" and
 1 insert "Sections 33, 100, and 101 of this act become operative
 2 three calendar months after the adjournment of this legislative
 3 session. The other sections of this act become"; and in line 16
 4 strike "its" and insert "their".

5 9. Renumber the remaining sections accordingly.

The Price amendment was adopted with 27 ayes, 0 nays, 21 present and not
 voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 256A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 693. E & R amendment, AM7113, found on page
 1783, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 557. E & R amendment, AM7111, found on page 1784, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 573. E & R amendment, AM7114, found on page 1785, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 343. E & R amendment, AM7109, printed separately and referred to on page 1789, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 70. The Jensen pending amendment, AM1613, printed separately and referred to on page 1667, to the Jensen pending amendment, AM1153, found on page 1173 and considered on page 1667, was renewed.

Senator Jensen withdrew his pending amendment, AM1613, printed separately and referred to on page 1667.

Senator Smith withdrew his pending amendment, AM1664, found on page 1669.

Senator Smith withdrew his pending amendment, AM1670, printed separately and referred to on page 1714.

The Jensen pending amendment, AM1153, found on page 1173 and considered on page 1667, was renewed.

Senator Smith renewed his pending amendment, AM1739, printed separately and referred to on page 1789, to the Jensen pending amendment.

SENATOR JANSSEN PRESIDING

Pending.

SELECT COMMITTEE REPORTS **Enrollment and Review**

LEGISLATIVE BILL 645. Placed on Select File as amended.
E & R amendment to LB 645:
AM7118

- 1 1. In the Brashear amendment, AM1334:
- 2 a. On page 2, line 24, after the last comma insert "or";
- 3 and
- 4 b. On page 5, line 17, after "for" insert "the".
- 5 2. On page 1, strike line 2; and strike beginning with
- 6 "to" in line 4 through "services" in line 5 and insert "to define
- 7 terms; to prohibit agencies, political subdivisions, and public
- 8 power suppliers from providing certain technology-based services as
- 9 prescribed; to create a task force; to eliminate provisions
- 10 relating to county telephone systems; to harmonize provisions".

LEGISLATIVE BILL 589. Placed on Select File as amended.
E & R amendment to LB 589:
AM7119

- 1 1. On page 1, line 1, after the first semicolon insert
- 2 "to amend section 44-1540, Reissue Revised Statutes of Nebraska;"
- 3 in line 3 strike "and"; and in line 4 before the period insert ";
- 4 and to repeal the original section".

LEGISLATIVE BILL 589A. Placed on Select File.

(Signed) Michael Flood, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 239. Introduced by Landis, 46.

WHEREAS, in October, 2004, Ted Kooser of Garland, Nebraska, was the first Nebraskan and the first Great Plains poet named as Poet Laureate of the United States; and

WHEREAS, Ted Kooser's acclaimed tenure as poet laureate, originally scheduled to end in May, 2005, has been extended a year; and

WHEREAS, Ted Kooser is the author of ten collections of poetry. Among other awards and distinctions, he has received two National Endowment of the Arts fellowships in poetry, the Pushcart Prize, the Stanley Kunitz Prize, the James Boatwright Prize, the Society of Midland Authors Prize (twice), and a Merit Award from the Nebraska Arts Council; and

WHEREAS, in April, 2005, Ted Kooser won the 2005 Pulitzer Prize for Poetry for his book *Delights & Shadows*; and

WHEREAS, Ted Kooser now teaches as a visiting professor in the English department of the University of Nebraska-Lincoln; and

WHEREAS, Ted Kooser's labor on behalf of promoting the reading, reflection, and celebration of poetry is rain where the summers parch.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature salutes Ted Kooser for his poetry, his distinguished service as Poet Laureate, his many awards, including the Pulitzer Prize, and his service on behalf of the power of language.
2. That a copy of this resolution be sent to Vera's boy, Ted.

Laid over.

LEGISLATIVE RESOLUTION 240. Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Erdman, 47; Price, 26; Synowiecki, 7.

PURPOSE: The purpose of this study is to examine the retirement system created under the Judges Retirement Act. The study will compare the Nebraska Judges Retirement System with other plans administered by the Public Employees Retirement Board, compare judicial-type retirement plans provided by other regional states, and review options for enhancements or modifications of the Nebraska Judges Retirement System.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 693:
AM1753

- 1 1. On page 19, line 24, before "In" insert "(1)"; in
- 2 line 26, strike "(1)" and insert "(a)"; and in line 28, strike
- 3 "(2)" and insert "(b)".
- 4 2. On page 20, line 4, strike "(3)" and insert "(c)"; in
- 5 line 7, strike "(4)" and insert "(d)"; and after line 11, insert
- 6 the following:
- 7 "(2) The authority may exercise any of the powers
- 8 authorized by this section only after a public hearing has been
- 9 held detailing the economic-impact project to be assisted and
- 10 allowing for input from the public. Notice of the public hearing
- 11 shall be given at least two weeks in advance of the hearing in a
- 12 newspaper of general circulation within the county affected by the
- 13 economic-impact project, which notice shall give a general
- 14 designation of the project and identify where more detailed plans
- 15 may be reviewed prior to the hearing.".

Senators Landis, Connealy, and Stuhr filed the following amendment to LB 71:
(Amendment, AM1742, is printed separately and available in the Bill Room, Room 1104.)

Senator Chambers filed the following amendment to LB 589:
FA308

Amend AM1707
Strike section 6.

SELECT FILE

LEGISLATIVE BILL 70. The Smith pending amendment, AM1739, printed separately and referred to on page 1789 and considered in this day's Journal, to the Jensen pending amendment, was renewed.

Senator Chambers asked unanimous consent to bracket LB 70 until June 3, 2005.

Senator Smith objected.

Senator Chambers offered the following motion:
Bracket until June 3, 2005.

SENATOR CUDABACK PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Senator Chambers requested a roll call vote, in reverse order, on his motion to bracket.

Voting in the affirmative, 14:

Byars	Howard	Kruse	Price	Thompson
Chambers	Johnson	Pedersen, Dw.	Schimek	Wehrbein
Cornett	Kopplin	Pederson, D.	Synowiecki	

Voting in the negative, 20:

Aguilar	Connealy	Flood	Kremer	Pahls
Baker	Cunningham	Foley	Landis	Redfield
Bourne	Erdman	Friend	Langemeier	Schrock
Brashear	Fischer	Hudkins	Mines	Smith

Present and not voting, 13:

Beutler	Cudaback	Janssen	Preister	Stuthman
Brown	Engel	Jensen	Raikes	
Burling	Heidemann	Louden	Stuhr	

Excused and not voting, 2:

Combs	McDonald
-------	----------

The Chambers motion to bracket failed with 14 ayes, 20 nays, 13 present

and not voting, and 2 excused and not voting.

The Chair declared the call raised.

The Smith pending amendment, AM1739, printed separately and referred to on page 1789 and considered in this day's Journal, to the Jensen pending amendment, was renewed.

Senator Smith moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

Senator Smith requested a roll call vote on his amendment.

Voting in the affirmative, 30:

Aguilar	Cudaback	Friend	Kruse	Raikes
Baker	Cunningham	Heidemann	Landis	Redfield
Beutler	Engel	Hudkins	Langemeier	Schrock
Bourne	Erdman	Janssen	Mines	Smith
Brashear	Fischer	Jensen	Pahls	Stuhr
Connealy	Flood	Kremer	Pederson, D.	Stuthman

Voting in the negative, 11:

Byars	Foley	Kopplin	Thompson
Chambers	Howard	Pedersen, Dw.	Wehrbein
Cornett	Johnson	Price	

Present and not voting, 6:

Brown	Louden	Schimek
Burling	Preister	Synowiecki

Excused and not voting, 2:

Combs	McDonald
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The Smith amendment was adopted with 30 ayes, 11 nays, 6 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

The Jensen pending amendment, AM1153, found on page 1173 and considered on page 1667 and in this day's Journal, was renewed.

Senator Chambers offered the following amendment to the Jensen pending amendment:

FA315

Amend AM1739

On page 1, in line 11 after "Legislature." insert "acting in concert".

The Chambers amendment lost with 9 ayes, 1 nay, 34 present and not voting, and 5 excused and not voting.

Senator Brashear asked unanimous consent to bracket LB 70 until June 1, 2005. No objections. So ordered.

LEGISLATIVE BILL 548. Senator Brashear asked unanimous consent to bracket until June 1, 2005. No objections. So ordered.

LEGISLATIVE BILL 478. Senator Cornett renewed her pending amendment, AM1690, found on page 1713 and considered on pages 1764 and 1776.

Senator Chambers withdrew his pending amendment, FA306, found on page 1776.

Senator Cornett renewed her pending amendment, AM1745, found on page 1810, to her pending amendment.

The Cornett amendment was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

The Cornett amendment, AM1690, as amended, was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

Senator Cornett asked unanimous consent to bracket LB 478 until June 3, 2005. No objections. So ordered.

LEGISLATIVE BILL 577. E & R amendment, AM7116, printed separately and referred to on page 1811, was adopted.

Senator Raikes offered the following amendment:
AM1759

(Amendments to E & R amendments, AM7116)

- 1 1. On page 6, line 27, strike "the" and insert ":(a)
- 2 The".
- 3 2. On page 7, line 2, strike "or if" and insert ":(b)";
- 4 in line 3 after "years" insert ":(c) the program has been
- 5 approved pursuant to subsection (5) of section 79-1103 for such
- 6 school year and the two preceding school years"; in line 4 strike
- 7 "such program" and insert "any of such programs"; in line 13 strike
- 8 "the" and insert ":(a) The"; in line 14 strike "or if such" and
- 9 insert ":(b) the"; in line 15 after "years" insert ":(c) the
- 10 program has been approved pursuant to subsection (5) of section
- 11 79-1103 for such school year and the two preceding school years";
- 12 and in line 16 strike "such program" and insert "any of such
- 13 programs".

- 14 3. On page 21, line 24, strike "(1)", show as stricken,
 15 and insert "(1)(a)".
- 16 4. On page 22, line 5, before "The" insert paragraphing
 17 and "(b)" and strike "(a)" and insert "(i)"; in line 11 strike
 18 "(b)" and insert "(ii)"; and in line 23 after the period insert
 19 paragraphing and "(c)".
- 20 5. On page 23, line 3, after the period insert
 21 paragraphing and "(d)"; and in line 13 after the period insert
 22 paragraphing and "(e)".
- 23 6. On page 24, line 9, strike "accepted", show as
 1 stricken, and insert "approved".
- 2 7. On page 25, strike beginning with "continuity" in
 3 line 17 through "kindergarten" in line 18 and insert "instructional
 4 hours that are similar to or less than the instructional hours for
 5 kindergarten".
- 6 8. On page 26, line 11, after "section" insert "and a
 7 proposed operating budget demonstrating that the program will
 8 continue to receive resources from other sources equal to or
 9 greater than the sum of any grant received pursuant to this section
 10 for the prior school year plus any calculated state aid as
 11 calculated pursuant to subsection (1) of this section for the prior
 12 school year".

The Raikes amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 373. Title read. Considered.

The Standing Committee amendment, AM0573, found on page 654, was considered.

Senator Fischer renewed the Fischer et al. pending amendment, AM0984, found on page 1039, to the Standing Committee amendment.

SENATOR BAKER PRESIDING

The Fischer et al. amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

SENATOR CUDABACK PRESIDING

The Standing Committee amendment, as amended, was adopted with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 9 present and not

voting, and 5 excused and not voting.

LEGISLATIVE BILL 116. Title read. Considered.

The Standing Committee amendment, AM1130, printed separately and referred to on page 1191, was considered.

Senator Connealy requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:
FA312

23 Sec. 9. Section 43-1724, Reissue Revised Statutes of
24 Nebraska, is amended to read:
25 43-1724. Any employer or other payor who fails to
26 withhold and remit any income of an obligor receiving income from
27 the employer or other payor, after proper notice as provided in
1 section 43-1723, shall be required to pay the certified amount to
2 the clerk of the district court specified in the notice. The
3 county attorney or authorized attorney may file an action in
4 district court to enforce this section. The court may sanction an
5 employer or other payor twenty-five dollars per day, up to five
6 hundred dollars per incident, for failure to comply with proper
7 notice.

4 Sec. 11. Section 43-3342.03, Reissue Revised Statutes of
5 Nebraska, is amended to read:
6 43-3342.03. (1) All support orders shall direct payment
7 of support as provided in section 42-369. Any support order issued
8 prior to the date that the State Disbursement Unit becomes
9 operative for which the payment is to be made to the clerk of the
10 district court shall be deemed to require payment to the State
11 Disbursement Unit after a notice to the obligor is issued.
12 (2) The unit may collect a fee equal to the actual cost
13 of processing any ~~payment made with insufficient funds.~~ After
14 payments for returned check charges or charges for electronic
15 payments not accepted. After a payor has originated two payments
16 made with insufficient funds resulting in returned check charges or
17 charges for electronic payments not accepted within a period of one
18 year, the unit shall may issue a notice to the originator that, for
19 the following year, any payment shall be required to be paid by
20 cash, guaranteed funds, or wire funds transfer money order,
21 cashier's check, or certified check. After a payor has originated
22 three payments made with insufficient funds resulting in returned
23 check charges or electronic payments not accepted, the unit shall
24 may issue a notice to the originator that all future payments shall
25 be paid by cash, guaranteed funds, or wire funds transfer money
26 order, cashier's check, or certified check, except that pursuant to

27 rule and regulation and at least two years after such issuance of
1 notice, the unit may waive for good cause shown such requirements
2 for methods of payment.

13 Sec. 14. Sections 12, 14, 15, and 17 of this act become
14 operative on their effective date. The other sections of this act
15 become operative three calendar months after adjournment of this
16 legislative session.

17 Sec. 15. Original section 52-401, Reissue Revised
18 Statutes of Nebraska, is repealed.

19 Sec. 16. Original sections 42-347, 42-364, 43-2,113,
20 43-512.15, 43-1724, 43-2909, and 43-3342.03, Reissue Revised
21 Statutes of Nebraska, are repealed.

22 Sec. 17. Since an emergency exists, this act takes
23 effect when passed and approved according to law."

The first Standing Committee amendment was adopted with 31 ayes, 0 nays,
13 present and not voting, and 5 excused and not voting.

The second Standing Committee amendment is as follows:
(FA311 consists of Sections 1 through 8, 10, and 13 of the Standing
Committee amendment.)

Senator Beutler withdrew his pending amendment, AM1462, found on page
1521.

The second Standing Committee amendment lost with 1 aye, 27 nays, 16
present and not voting, and 5 excused and not voting.

The third Standing Committee amendment is as follows:
FA314

3 Sec. 12. Section 52-401, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 52-401. Whenever any person employs a physician,
6 chiropractor, nurse, or hospital to perform professional service or
7 services of any nature, in the treatment of or in connection with
8 an injury, and such injured person claims damages from the party
9 causing the injury, such physician, chiropractor, nurse, or
10 hospital, as the case may be, shall have a lien upon any sum
11 awarded the injured person in judgment or obtained by settlement or
12 compromise on the amount due for the usual and customary charges of
13 such physician, chiropractor, nurse, or hospital applicable at the
14 times services are performed, except that no such lien shall be
15 valid against anyone coming under the Nebraska Workers'
16 Compensation Act.

17 In order to prosecute such lien, it shall be necessary
18 for such physician, chiropractor, nurse, or hospital to serve a
19 written notice upon the person or corporation from whom damages are
20 claimed that such physician, chiropractor, nurse, or hospital
21 claims a lien for such services and stating the amount due and the

22 nature of such services, except that whenever an action is pending
23 in court for the recovery of such damages, it shall be sufficient
24 to file the notice of such lien in the pending action.

25 A physician, chiropractor, nurse, or hospital claiming a
26 lien under this section shall not be liable for attorney's fees and
27 costs incurred by the injured person in securing the judgment,
1 settlement, or compromise, but the lien of the injured person's
2 attorney shall have precedence over the lien created by this
3 section.

4 Upon a written request and with the injured person's
5 consent, a lienholder shall provide medical records, answers to
6 interrogatories, depositions, or any expert medical testimony
7 related to the recovery of damages within its custody and control
8 at a reasonable charge to the injured person.

Pending.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 13, 13A, 465, 484, 538, 538A, 761, and 761A.

ER9045

Enrollment and Review Change to LB 465

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, the matter beginning with "insurance" in line 1 through line 4 has been struck and "financial transactions; to amend sections 44-371 and 44-1089, Reissue Revised Statutes of Nebraska, and sections 8-1,131 and 21-1799, Revised Statutes Supplement, 2004; to provide powers relating to health savings accounts; to provide and change provisions relating to exemptions from claims of creditors for medical and health savings accounts, annuity contracts, and certain insurance policies; and to repeal the original sections." inserted.

ER9044

Enrollment and Review Change to LB 484

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, line 1, "the Employment Security Law" has been struck and "employment" inserted; in line 2 "48-310," has been inserted after "sections"; in line 4 "to change provisions relating to child labor;" has been

inserted after the semicolon; in line 5 "of employment security law" has been inserted before "relating"; in line 8 "under the Employment Security Law" has been inserted after "employers"; in lines 9 and 10 "an operative date" has been struck and "operative dates; to provide severability" inserted; and in line 10 "and" has been struck and "to declare an emergency" has been inserted before the period.

2. On page 22, lines 16 and 17, the new matter has been struck.

ER9048

Enrollment and Review Change to LB 538

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Brashear amendment, AM1711:

a. Sections 25, 26, and 27 have been renumbered as sections 24, 25, and 26, respectively;

b. On page 1, lines 16 and 17, "26 and 27" has been struck and "25 and 26" inserted; and

c. On page 3, line 20, "section" has been struck and "sections" inserted.

2. In the E & R amendments, AM7106, on page 1, line 10, "28-931.01," has been inserted after "28-931,,"; and in line 11 "83-1,135," has been inserted after "83-1,102,."

3. On page 1, line 11, "medical parole," has been inserted after the last comma; and in line 13 "to eliminate a duty of the Department of Health and Human Services Regulation and Licensure;" has been inserted after the second semicolon.

(Signed) Michael Flood, Chairperson

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 548:
AM1754

(Amendments to AM1696)

1. On page 5, line 10, strike "and" through "conclusive"
- 2 and insert "but shall be equitable and may be appealed within ten
- 3 days of the decision by the governing body of the public entity".
- 4 2. On page 6, line 1, strike "shall" through
- 5 "conclusive" and insert "may be appealed within ten days after the
- 6 determination".

Senator Beutler filed the following amendment to LB 548:
FA310

Amend AM1696

On page 5, line 10 strike "and shall be final and conclusive" and insert "but shall be fair, reasonable and non-discriminating and may be appealed within 10 days of the decision by the governing body of the public entity"

Senators Friend, Erdman, Foley, Kremer, Dw. Pedersen, and Smith filed the following amendment to LR 98:

AM1757

- 1 1. Strike the findings on pages 1 through 3 and insert
- 2 the following "WHEREAS" clauses:
- 3 "WHEREAS, the Nebraska Accountability and Disclosure
- 4 Commission has fined David Hergert for violations of the
- 5 Accountability and Disclosure Act and the Campaign Finance
- 6 Limitation Act during the 2004 primary and general election
- 7 periods; and
- 8 WHEREAS, the Nebraska Accountability and Disclosure
- 9 Commission has fined Regent Drew Miller following his admission of
- 10 willful and intentional violations of the Accountability and
- 11 Disclosure Act and the Campaign Finance Limitation Act during the
- 12 2000 general election period, at which time he was serving as a
- 13 member of the Board of Regents of the University of Nebraska; and
- 14 WHEREAS, the Nebraska Supreme Court, in State v. Hill,
- 15 State v. Benton, 37 Neb. 80, (1893), affirmed in State v. Douglas,
- 16 217 Neb. 199, (1984), has ruled that "acts committed by a person
- 17 while in office are alone impeachable", and "if the offender is
- 18 still an officer, he is amendable to impeachment, although the acts
- 19 charged were committed in his previous term of the same office.".
- 20 2. In "Resolved" clause number 1, strike "to resign his
- 21 seat" and insert "and Drew Miller to resign their seats".
- 22 3. In "Resolved" clause number 2, strike "vacated seat"
- 23 and insert "and Mr. Miller's vacated seats".
- 24 4. In "Resolved" clause number 3, strike "vacated seat"
- 1 and insert "and Mr. Miller's vacated seats".
- 2 5. In "Resolved" clause number 4, strike each occurrence
- 3 of "Mr. Hergert" and insert "Mr. Miller".
- 4 6. In "Resolved" clause number 5, "at his" and insert
- 5 "and Mr. Miller at their" and strike "address" and insert
- 6 "addresses".

Senator Brashear filed the following amendment to LB 645:

AM1769

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. For purposes of sections 1 to 7 of this act:
- 4 (1) Broadband services means the offering of a capability
- 5 for high-speed broadband telecommunications capability at a speed
- 6 or bandwidth in excess of two hundred kilobits per second that
- 7 enables users to originate and receive high-quality voice, data,
- 8 and video telecommunications using any technology;
- 9 (2) Internet services means the offering of Internet
- 10 service provider services, providing voice over Internet protocol
- 11 services, or providing Internet protocol-based video services;
- 12 (3) Public power supplier means a public power district,
- 13 a public power and irrigation district, a municipal electric

14 system, a joint entity formed under the Interlocal Cooperation Act,
15 a joint public agency formed under the Joint Public Agency Act, an
16 agency formed under the Municipal Cooperative Financing Act, or any
17 other governmental entity providing electric service;

18 (4) Telecommunications has the same meaning as
19 telecommunications defined in section 86-117;

20 (5) Telecommunications services has the same meaning as
21 telecommunications service defined in section 86-121; and

22 (6) Video services means the delivery of any subscription
23 video service except those described in section 70-625.

24 Sec. 2. (1) Except as provided in sections 79-1319,
1 81-1120.01 to 81-1120.28, 85-401 to 85-418, 85-1501 to 85-1542, and
2 86-575, an agency or political subdivision of the state that is not
3 a public power supplier shall not provide on a retail or wholesale
4 basis any broadband services, Internet services, telecommunications
5 services, or video services.

6 (2) The provisions of subsection (1) of this section
7 shall not apply to services which an agency or political
8 subdivision of the state was authorized to provide and was
9 providing prior to January 1, 2005.

10 Sec. 3. (1) A public power supplier shall not provide on
11 a retail basis any broadband services, Internet services,
12 telecommunications services, or video services.

13 (2) The provisions of subsection (1) of this section
14 shall not apply to services which a public power supplier was
15 authorized to provide and was providing prior to January 1, 2005.

16 Sec. 4. (1) A public power supplier shall not provide on
17 a wholesale basis any broadband services, Internet services,
18 telecommunications services, or video services.

19 (2) This section terminates on December 31, 2007.

20 Sec. 5. (1) For purposes of sections 2 to 4 of this act,
21 providing a service on a retail or wholesale basis shall not
22 include an agency or political subdivision of the state, whether or
23 not a public power supplier, deploying or utilizing broadband
24 services, Internet services, telecommunications services, or video
25 services, for its own use either individually or jointly through
26 the Interlocal Cooperation Act, the Joint Public Agency Act, or the
27 Municipal Cooperative Financing Act for the internal use and
1 purpose of the agency, political subdivision, or public power
2 supplier or to carry out the public purposes of the agency,
3 political subdivision, or public power supplier.

4 (2) Nothing in sections 1 to 7 of this act prohibits or
5 restricts the ability of an agency, political subdivision, or
6 public power supplier from deploying or utilizing broadband
7 services, Internet services, telecommunications services, or video
8 services for the internal use and purpose of the agency, political
9 subdivision, or public power supplier, or to carry out the public
10 purposes of the agency, political subdivision, or public power
11 supplier.

12 Sec. 6. Except as otherwise provided in sections 3 and 4
13 of this act, nothing in sections 1 to 7 of this act shall be
14 construed to restrict or expand any authority of a public power
15 supplier as that authority existed prior to the effective date of
16 this act.

17 Sec. 7. (1) The Broadband Services Task Force is
18 created. The members shall be appointed as follows:

19 (a) Three members appointed by the Executive Board of the
20 Legislative Council;

21 (b) Six members appointed by the Governor, of whom one
22 member shall be appointed from each congressional district and
23 three members shall be appointed on an at-large basis;

24 (c) Three members of the Public Service Commission;

25 (d) Three members of the Nebraska Power Review Board or
26 their designees; and

27 (e) Three members of the Nebraska Information Technology
1 Commission or their designees.

2 (2) Appointments under this section shall be completed
3 within thirty days after the effective date of this act and
4 reported to the Executive Board of the Legislative Council. The
5 chairperson of the executive board shall convene the first meeting
6 of the task force within forty-five days after the appointments are
7 reported, and the task force shall select a chairperson at such
8 time.

9 (3) On behalf of the task force, the Executive Board of
10 the Legislative Council shall, in consultation with the task force,
11 contract for the services of a meeting facilitator and such other
12 assistance as the executive board, in consultation with the task
13 force, deems necessary within the limits of the funds appropriated.
14 In making its selection of a meeting facilitator, the executive
15 board shall consider experience in the areas of telecommunications
16 and public power.

17 (4) Issues to be studied by the task force shall include,
18 but are not limited to:

19 (a) The implications upon competition of agencies or
20 political subdivisions of the state or public power suppliers
21 offering infrastructure access for broadband services, Internet
22 services, telecommunications services, and video services and
23 private sector investment in networks for the provision of such
24 services;

25 (b) The need and necessity for the provision of wholesale
26 broadband services, Internet services, telecommunications services,
27 or video services by agencies or political subdivisions of the
1 state and public power suppliers;

2 (c) Issues regarding the establishment of fair and
3 equitable requirements for the regulation and taxation of the
4 provision of wholesale broadband services, Internet services,
5 telecommunications services, and video services by agencies or
6 political subdivisions of the state and public power suppliers;

7 (d) An assessment of the extent and availability of
8 public power infrastructure in the state and an evaluation of how
9 such infrastructure could be utilized to enhance the provision of
10 broadband services, Internet services, telecommunications services,
11 and video services to consumers and businesses and the feasibility
12 of using such technology in all regions of the state;

13 (e) A determination of how parity could be established
14 for competing interests in the provision of broadband services,
15 Internet services, telecommunications services, and video services,
16 including, but not limited to, the amount of property taxes paid,
17 income taxes, in lieu of tax payments paid, gross receipts taxes,
18 sales taxes paid, tax credits and funds provided under current
19 federal and state laws, and financing capabilities, including
20 shareholder equity;

21 (f) An evaluation of the statutory and regulatory
22 frameworks of other states' publicly owned utilities as they relate
23 to providing broadband services, Internet services,
24 telecommunications services, and video services; and

25 (g) An analysis of the geographic areas in which
26 broadband services, Internet services, telecommunications services,
27 and video services are being offered in the state, the degree of
1 regulation and competition with respect to each such service within
2 such geographic areas, and the implications of permitting agencies,
3 political subdivisions, and public power suppliers to provide such
4 services on the geographic reach of such services and the degree of
5 competition in such geographic areas.

6 (5) The task force shall study the issues described in
7 subsection (4) of this section, identify options for the resolution
8 of such issues, and make recommendations to the Legislature and the
9 Governor relating to any policy changes the task force deems
10 desirable. The task force shall complete its work by December 1,
11 2006, and submit its report to the Legislature, the Governor, the
12 Natural Resources Committee of the Legislature, and the
13 Transportation and Telecommunications Committee of the Legislature
14 by such date.

15 (6) This section terminates on December 1, 2006.

16 Sec. 8. Section 25-2602.01, Revised Statutes Supplement,
17 2004, is amended to read:

18 25-2602.01. (a) A written agreement to submit any
19 existing controversy to arbitration is valid, enforceable, and
20 irrevocable except upon such grounds as exist at law or in equity
21 for the revocation of any contract.

22 (b) A provision in a written contract to submit to
23 arbitration any controversy thereafter arising between the parties
24 is valid, enforceable, and irrevocable, except upon such grounds as
25 exist at law or in equity for the revocation of any contract, if
26 the provision is entered into voluntarily and willingly.

27 (c) The Uniform Arbitration Act applies to arbitration
1 agreements between employers and employees or between their

2 respective representatives.

3 (d) Contract provisions agreed to by the parties to a
4 contract control over contrary provisions of the act other than
5 subsections (e) and (f) of this section.

6 (e) Subsections (a) and (b) of this section do not apply
7 to a claim for workers' compensation.

8 (f) Subsection (b) of this section does not apply to:

9 (1) A claim arising out of personal injury based on tort;

10 (2) A claim under the Nebraska Fair Employment Practice
11 Act;

12 (3) Any agreement between parties covered by sections
13 60-1401.01 to 60-1440; and

14 (4) Except as provided in section 44-811, any agreement
15 concerning or relating to an insurance policy other than a contract
16 between insurance companies including a reinsurance contract.

17 (g) When a conflict exists, the Uniform Arbitration Act
18 shall not apply to the Uniform Act on Interstate Arbitration and
19 Compromise of Death Taxes and sections 44-811, 44-4824, 54-404 to
20 54-406, 60-2701 to 60-2709, and 70-1301 to 70-1329; ~~and 86-588~~
21 ~~to 86-590.~~

22 Sec. 9. Section 86-575, Revised Statutes Supplement,
23 2004, is amended to read:

24 86-575. (1) Any agency or political subdivision of the
25 state may:

26 (a) Own dark fiber;

27 (b) Sell dark fiber pursuant to section 86-576; and

1 (c) Lease dark fiber pursuant to section 86-577.

2 (2) ~~No agency or political subdivision of the state shall~~
3 ~~provide telecommunications services for a fee, except as authorized~~
4 ~~in sections 79-1319, 81-1120.01 to 81-1120.28, 85-401 to 85-418,~~
5 ~~and 85-1501 to 85-1542, or be issued a certificate of convenience~~
6 ~~and necessity as a telecommunications common carrier or a permit as~~
7 ~~a telecommunications contract carrier. Any agency or political~~
8 ~~subdivision which sells or leases its dark fiber pursuant to~~
9 ~~sections 86-574 to 86-578 shall not be deemed to be providing~~
10 ~~telecommunications services for a fee as defined in section 1 of~~
11 ~~this act.~~

12 Sec. 10. There is hereby appropriated \$200,000 from the
13 General Fund for FY2005-06 to the Legislative Council for Program
14 122, to aid in carrying out the provisions of Legislative Bill 645,
15 Ninety-ninth Legislature, First Session, 2005.

16 No expenditures for permanent and temporary salaries and
17 per diems for state employees shall be made from funds appropriated
18 in this section.

19 Sec. 11. Original sections 25-2602.01 and 86-575,
20 Revised Statutes Supplement, 2004, are repealed.

21 Sec. 12. The following sections are outright repealed:

22 Sections 86-581 to 86-592, Revised Statutes Supplement, 2004."

RESOLUTION

LEGISLATIVE RESOLUTION 241. Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Connealy, 16; Cornett, 45; Janssen, 15; Schimek, 27.

PURPOSE: This study would propose to review various issues relating to natural gas regulation which remain unresolved at the adjournment of the Ninety-ninth Legislature, First Session. The committee will undertake to investigate the current status of regulatory activities regarding natural gas under the jurisdiction of the Public Service Commission, including an investigation of any recommendations from the commission or flowing from its activities which should lead to new legislation. The study will further review legislative bills regarding natural gas regulation which were considered by the Urban Affairs Committee during this session and determine what legislation should be introduced during the next legislative session to resolve concerns raised by those bills. Issues to be addressed shall include (amongst others): The creation of service territories for public- and investor-owned natural gas utilities; amendment or repeal of the Municipal Natural Gas System Condemnation Act; expanded marketing authority for cities and MUD; and expanded authority for expansion of metropolitan utilities districts. Additionally, the study will address the regulation of transportation rates for high volume ratepayers and potential legislation to preserve their independent status.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 116. The third Standing Committee amendment, FA314, found in this day's Journal, was renewed.

Senator Chambers offered the following amendment to the third Standing Committee amendment:

FA317

Amend FA314

On page 1, in lines 6, 9, 13, 18, 20 and 25 after "chiropractor", insert "podiatrist".

Senator Chambers withdrew his amendment.

The third Standing Committee amendment lost with 12 ayes, 11 nays, 21 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 42 ayes, 0 nays, 2 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 594. Title read. Considered.

The Standing Committee amendment, AM1132, found on page 1285, was adopted with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

SELECT COMMITTEE REPORTS **Enrollment and Review**

Correctly Engrossed

The following bills were correctly engrossed: LBs 227, 256, 256A, 343, 557, 573, and 693.

ER9049

Enrollment and Review Change to LB 227

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, "veteran" in line 1 through line 4 has been struck and "veterans; to amend section 12-1301, Revised Statutes Supplement, 2004, section 37-420, Reissue Revised Statutes of Nebraska, as amended by section 6, Legislative Bill 54, Ninety-ninth Legislature, First Session, 2005, and section 6, Legislative Bill 162, Ninety-ninth Legislature, First Session, 2005, and section 37-421, Reissue Revised Statutes of Nebraska, as amended by section 7, Legislative Bill 162, Ninety-ninth Legislature, First Session, 2005; to change provisions relating to the funding of veteran cemeteries and veteran hunting and fishing permits; to provide operative dates; and to repeal the original sections." inserted.

ER9050

Enrollment and Review Change to LB 256

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Price amendment, AM1751, on page 2, the matter beginning with the second "page" in line 17 through the first semicolon in line 18 has been struck.

2. In the Standing Committee amendment, AM0542:

a. On page 2, line 21; and page 3, line 27, "act" has been struck and "section" inserted; and

b. On page 3, line 5, the second "act" has been struck and "section" inserted.

3. On page 1, line 1, "nursing" has been struck and "public health and welfare" inserted; and in line 12 "71-3,106," has been inserted after the last comma.

4. On page 2, line 9, "to provide exemptions from the Nebraska Cosmetology Act for airbrush tanning and temporary nonpermanent airbrush tattooing;" has been inserted after the first semicolon; and in line 10 "an operative date" has been struck and "operative dates" inserted.

(Signed) Michael Flood, Chairperson

AMENDMENTS - Print in Journal

Senator Foley filed the following amendment to LR 98:
AM1714

- 1 1. Strike resolved 4.
- 2 2. Renumber the remaining resolved accordingly.

Senator Friend filed the following amendment to LB 116:
AM1225

(Amendments to Standing Committee amendments, AM1130)

- 1 1. On page 15, line 2, strike "clerk of the district
2 court specified in the notice", show as stricken, and insert "State
3 Disbursement Unit".
- 4 2. On page 16, lines 17 and 18, strike "one year", show
5 as stricken, and insert "two years".

UNANIMOUS CONSENT - Add Cointroducers

Senator Cornett asked unanimous consent to have her name added as cointroducer to LB 194. No objections. So ordered.

Senator Howard asked unanimous consent to have her name added as cointroducer to LB 288. No objections. So ordered.

VISITORS

Visitors to the Chamber were Jeremy Kildare from Lincoln; and Prudie Skinner from Herman and Mary Adams from Wolverhampton, England.

ADJOURNMENT

At 7:18 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Wednesday, June 1, 2005.

Patrick J. O'Donnell
Clerk of the Legislature

